



September 24, 2013

U.S. Environmental Protection Agency
EPA Docket Center
Mail Code 6102T
Attn: Docket ID No. EPA-HQ-OAR-2012-0934
1200 Pennsylvania Ave., NW
Washington, DC 20004

Re: Comments on the Proposed 2013 Revision to the Greenhouse Gas Reporting Rule, 78 Fed. Reg. 19802, Docket No. EPA-HQ-OAR-2012-0934

Western Energy Alliance (“the Alliance”), the American Exploration and Production Council (“AXPC”), American Natural Gas Alliance (“ANGA”) and the Independent Petroleum Association of America (“IPAA”) respectfully submit the following comments on the Environmental Protection Agency’s (“EPA’s”) proposed amendments to the Greenhouse Gas (“GHG”) Reporting Rule, Docket No. EPA-HQ-OAR-2012-0934. We appreciate the opportunity to participate in the process and recognize these comments are submitted after the comment deadline. However, EPA did not provide adequate analysis or notice of the full range of impacts these amendments will have on Title V and Prevention of Significant Deterioration (“PSD”) permitting, and Indian Country Minor Source programs. We request that EPA clarify the effective date of the revised global warming potential (“GWP”) contained in Table A-1 to Subpart A of Part 98 and develop guidance on the applicability of the revised methane GWP to Clean Air Act permitting programs.

Western Energy Alliance represents over 400 companies involved in all aspects of environmentally responsible extraction and production of oil and natural gas in the West. We represent independent producers, most of which are small businesses with an average of twelve employees. Our members are committed to reducing emissions from their operations and consistently employ best industry practices whether mandated by regulations or voluntary. Changes to the GHG Reporting Rule that require more companies to go through additional Title V and PSD processes will be particularly onerous for small companies such as our members.

AXPC is a national trade association representing 32 of America’s largest and most active independent natural gas and crude oil exploration and production companies. AXPC’s members are “independent” in that their operations are limited to the exploration for and production of natural gas and crude oil. Moreover, its members operate autonomously, unlike their fully integrated counterparts, which operate in additional segments of the energy business, such as downstream refining and marketing. AXPC’s members are leaders in developing and applying the innovative and advanced technologies necessary to explore for and produce crude oil and natural gas, both offshore and onshore from unconventional sources, and that allow our nation to add reasonably priced domestic energy reserves in environmentally responsible ways.

IPAA represents the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts, that will be the most significantly affected by these proposed regulatory actions. Independent producers develop 95 percent of domestic oil and gas wells, produce 68 percent of domestic oil and produce 82 percent of domestic natural gas. Historically, independent producers have invested over 150 percent of their cash flow back into domestic oil and natural gas development to find and produce more American energy. IPAA is dedicated to ensuring a strong, viable domestic oil and natural gas industry, recognizing that an adequate and secure supply of energy is essential to the national economy.

I. Impact of Revised GWP on Permitting

EPA has proposed to increase the GWP of methane from 21 to 25. EPA describes the revision as simply a “Technical Correction” to the GHG Reporting Rule, but that is not the case. Since the GWP acts as a “multiplier” to methane’s carbon dioxide equivalent (“CO₂e”) value, the practical result of this change is that actual and projected CO₂e emissions of sources that emit methane will increase. While this change may not significantly impact GHG reporting, it will have a major impact on Clean Air Act permitting.

EPA’s Tailoring Rule requires new sources above 100,000 tpy CO₂e and modified sources above 75,000 tpy CO₂e to obtain PSD permits based on GHG emissions. A GHG emission source above 100,000 tpy CO₂e is also required to obtain a Title V permit. Therefore, with the change in GWP for methane, minor sources could become major sources subject to PSD and operators could be required to get Title V permits. The net impact would be twofold. First, additional uncertainty will be injected into the permitting process for sources that may have previously determined that PSD and Title V requirements did not apply. Second, in cases where new permitting burdens are created, additional costs and delay will likely result.

The proposed changes to Table A-1 would have a similar effect on sources in Indian Country. In July 2011, EPA promulgated the Indian Country Minor Source Rule, which will require preconstruction permits for synthetic and real minor sources beginning September 2, 2014. Because there were no minor source permits in Indian Country before this rule, many minor sources operate without a permit. Changes to Table A-1 that push these minor sources to major sources will require operators to go through the process of obtaining Title V permits and potentially PSD. This will negatively impact development in Indian Country, and could expose operators to litigation, increase costs, and impose new regulatory burdens.

EPA’s proposal failed to analyze these impacts. In addition to the costs of new reporters to the GHG Reporting Rule, EPA should have added the costs of new sources subject to the Title V and PSD. It requires significant time and resources for a company to successfully navigate the Title V and PSD permitting processes, and some projects might be delayed or not constructed.

II. Timing and Guidance

While the proposed rule notes that changes to Table A-1 *may* affect the calculated CO₂e emissions of a source once the Table A-1 amendment is promulgated and effective, EPA does not clarify the impact of the revision on PSD and Title V applicability. This is in contrast to EPA’s fairly extensive analysis and discussion of when the change in GWP values will become effective for GHG reporting programs. EPA clarifies that existing reporters will have until March 31, 2014 to incorporate the new values into their reports for the 2013 reporting year and that new reporters would not be affected until March 31, 2015 for the 2014 reporting year. EPA should extend the effective date of any final changes to the GWP of

methane for purposes of the PSD and title V programs to similarly account for the disruption to permitting system and to give affected sources adequate time. EPA should first clarify that the change in GWP values does not affect any project for which a permit application has been filed. We would also ask that EPA allow another year after publication of the final rule in the Federal Register for the submission of additional permit applications before imposing the change in GWP values to Table A-1 on PSD or Title V permits.

Second, EPA has indicated that EPA regional offices and the Office of Air Quality Planning and Standards “will work with permitting authorities and other stakeholders as necessary to provide guidance on [permitting] issues and concerns.” 78 Fed. Reg. 19,809. We believe EPA should move expeditiously to initiate this guidance development process and conduct outreach to affected industries and stakeholders. Since investment in energy infrastructure and facilities requires long-range planning and commitment of financial resources, EPA should not wait until any change in GWP is finalized, but instead proactively engage the affected community on matters of timing and interpretation of permitting requirements, including any scenario under which facilities who are already engaged in the permitting process might be affected. In the alternative, we request that EPA publish an additional notice for public comment regarding the impacts the proposed changes to Table A-1 will have on the Clean Air Act permitting, including the Indian Country minor source rule. Given the importance of this matter, industry and the public must have the ability to thoroughly consider the effects of the changed GWP on current and future projects.

Sincerely,



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